

TAB 12

ROBERT KLIMAS

August 24, 2017

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09:45:36

1 IN THE DISTRICT COURT OF THE UNITED STATES
2 FOR THE NORTHERN DISTRICT OF ILLINOIS
3 EASTERN DIVISION

4 ESTATE OF PIERRE LOURY,)
5 Deceased, by Tambrasha)
6 Hudson, Administrator,)
7 Plaintiff,)
8 - vs -) No. 16 C 04452
9 CITY OF CHICAGO, Chicago)
10 Police Officers SEAN HITZ)
11 (Star No. 6272) and JEFF J.)
12 RIORDAN (Star No. 7716),)
13 Defendants.)

14 Videotape deposition of COMMANDER ROBERT
15 KLIMAS, taken before NANCY DECOLA EATINGER, C.S.R.,
16 and Notary Public, pursuant to the Federal Rules of
17 Civil Procedure for the United States Courts
18 pertaining to the taking of depositions for the
19 purpose of discovery, at Suite 2300, 191 North Wacker
20 Drive, Chicago, Illinois, commencing at 9:57 o'clock
21 a.m., taken on August 24th, 2017.

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23

24

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1 (Witness sworn)

2 COMMANDER ROBERT KLIMAS,

3 called as a witness herein, having been first duly

4 sworn, was examined upon oral interrogatories and

5 testified as follows:

6 EXAMINATION

7 By Mr. Stroth:

8 Q Commander Klimas, thank you for coming in

9 today.

10 A You're welcome.

11 Q You are here today to give testimony on

12 behalf of the City of Chicago, is that correct?

13 A That's correct.

14 Q You understand that you are not giving

15 testimony in your personal capacity?

16 A Correct.

17 Q Have you given deposition testimony in the

18 past?

19 A I have.

20 Q About how many times approximately?

21 A It's probably around seven or more now.

22 Q Have you ever testified as an expert witness

23 in any police-involved shooting case?

24 A No.

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1 A Correct.

10:05:09

2 Q -- is that correct?

10:05:10

3 Did you talk to anyone other than your City
4 lawyer?

10:05:10

10:05:14

5 A I mentioned my deposition to the general
6 counsel of the City of Chicago, Chicago Police
7 Department, aware that they were -- that I was
8 providing a deposition.

10:05:15

10:05:19

10:05:25

10:05:28

9 Q Okay. Are you currently employed with the
10 City of Chicago?

10:05:29

10:05:31

11 A I am.

10:05:32

12 Q And what is your current position?

10:05:32

13 A I'm a commander at the Bureau of Internal
14 Affairs, Chicago Police Department.

10:05:35

10:05:39

15 Q Can you please describe your job
16 responsibilities?

10:05:40

10:05:44

17 A Yeah, I've been a commander since August of
18 2008. My roles at that time and now are the same.

10:05:45

10:05:49

19 In between, and I'll explain, there was
20 another commander that assisted me for a brief period
21 of time, but we have three investigative sections
22 within the Bureau of Internal Affairs.

10:05:56

10:05:59

10:06:01

10:06:07

23 It started off with General Investigations,
24 Special Investigations and Confidential

10:06:12

10:06:15

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1 Investigations. That has changed. Now we have Area 10:06:17
2 North, Central and South along with Confidential 10:06:21
3 Investigations. 10:06:24

4 My role is to review all confidential cases, 10:06:25
5 cases that are complete. I look -- I sign off on all 10:06:30
6 of those. 10:06:37

7 Then I look at all sustained cases from the 10:06:37
8 other sections, investigative sections that have a 10:06:40
9 penalty of ten days or more. 10:06:44

10 We also have cases that go out to the 10:06:49
11 districts in units. I do not review those. Those 10:06:51
12 are lesser transgressions, but that's part of the 10:06:56
13 Bureau of Internal Affairs to collect and review and 10:07:00
14 disseminate to the appropriate parties. 10:07:03

15 I answer questions to the various commanders 10:07:06
16 and command staff regarding certain issues that come 10:07:09
17 up in an investigation. 10:07:13

18 I make sure we open an investigation if we 10:07:15
19 become aware of misconduct of a department member, 10:07:20
20 whether it's civilian or sworn, and those come from a 10:07:23
21 variety of sources and make -- you know, there's 10:07:27
22 issues. 10:07:34

23 We meet with the superintendent on a weekly 10:07:35
24 basis, we discuss certain matters with the 10:07:37

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1 superintendent, we have meetings periodically with -- 10:07:41

2 quarterly with the Cook County -- no, I'm sorry, with 10:07:46

3 the corporation counsel, periodic meetings with the 10:07:49

4 Cook County State's Attorney's Office and 10:07:53

5 periodically with the Federal Bureau of 10:07:55

6 Investigation. 10:07:58

7 Those change based -- it's really based upon 10:07:58

8 issues that are occurring, whether the number of 10:08:04

9 investigations and whether there's some serious 10:08:09

10 ongoing investigations that the FBI is looking at or 10:08:13

11 the Cook County State's Attorney's Office. 10:08:16

12 That's, that's the bulk of my work. I sign 10:08:18

13 off on other various cases that are administratively 10:08:23

14 closed. 10:08:26

15 So you understand, the City of Chicago has a 10:08:28

16 very open complaint allegation system that IPRA 10:08:31

17 handles, and allegations are made against police 10:08:38

18 officers or City department members that really are 10:08:41

19 not -- well, they're not City, City of Chicago, 10:08:45

20 Chicago Police Department personnel. They could be 10:08:52

21 various other agencies within the City of Chicago, 10:08:54

22 and it usually comes up like with an M-plate, this 10:08:57

23 M-plate went through a red light, and they file a 10:09:01

24 complaint against the Chicago Police Department. 10:09:04

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1	Those are administratively closed. I sign		10:09:07
2	off on all of those to make sure that anything that's		10:09:10
3	administratively closed falls, you know, within the		10:09:13
4	parameters that we're not going to investigate, and		10:09:16
5	I'm the one that has to answer to those.		10:09:18
6	Q Understood.		10:09:21
7	A Okay.		10:09:22
8	Q Who do you report to?		10:09:22
9	A We have a chief, and currently that chief is		10:09:23
10	Eddie Welch, III, W-e-l-c-h.		10:09:28
11	Q And prior to the position that you just		10:09:29
12	described, what was your position directly before		10:09:34
13	that?		10:09:36
14	A Prior to that I was a special agent with the		10:09:37
15	Federal Bureau of Investigation, and I was a special		10:09:40
16	agent from 1987 to 2008, and that was -- I retired at		10:09:43
17	the end of July of 2008.		10:09:49
18	Q And what were your duties in that role, in		10:09:51
19	that position?		10:09:55
20	A It changed over the years, but the bulk of my		10:09:55
21	investigation work was in white collar, insurance		10:09:59
22	fraud, commodities fraud, securities fraud, bank		10:10:06
23	fraud, wire fraud, and it was -- I worked in Phoenix,		10:10:09
24	Little Rock and Chicago.		10:10:21

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1 THE WITNESS: What I'm, again, struggling with is 10:16:12

2 we're talking about the investigation, and so the 10:16:26

3 practices of our officers in that investigation 10:16:30

4 failing to, failing to conform to our policies. 10:16:36

5 There will be times that there are, and when 10:16:43

6 you have police-involved shootings, again, they're 10:16:47

7 investigated by IPRA, but I am aware of certain 10:16:52

8 instances in which in the IPRA investigations they 10:16:56

9 have concluded that officers did not conform to 10:17:00

10 policies, and the shooting may be justified, but 10:17:05

11 there are other things that come up that they 10:17:10

12 sustained an allegation that the officers failed to 10:17:13

13 conform from various policies and rules and 10:17:18

14 regulations, and that could be minor. It could be 10:17:23

15 officers need to have the same ammunition in their 10:17:29

16 magazine, there are times when they don't. It has to 10:17:33

17 be the same brand. 10:17:36

18 They also -- it could be as serious as a 10:17:37

19 Rule 14, and that's a false -- making a false 10:17:41

20 statement oral or written, and again, the shooting 10:17:44

21 may have been justified, but they -- their conclusion 10:17:48

22 is the officer lied, and they will seek separation of 10:17:51

23 that officer. 10:17:55

24 MR. STROTH: Q Can you provide me with a 10:17:57

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1 specific example or a case or -- that you remember 10:17:59
2 where there was this type of inquiry? 10:18:03
3 A The minor transgressions occur -- I don't 10:18:06
4 have a specific name of a law member. When they look 10:18:14
5 at the ammunition in an officer's magazine or the 10:18:18
6 shell casings, they need to be the same. That 10:18:22
7 occurs. 10:18:25
8 We're still talking -- you know, if they 10:18:25
9 have a nine-millimeter semi-automatic weapon, they 10:18:28
10 have nine-millimeter rounds, but it's -- they're 10:18:32
11 mixing a Federal brand with a Remington brand, okay, 10:18:36
12 and that's, that's a minor -- they're still 10:18:40
13 nine-millimeter rounds, but they have to be the same 10:18:45
14 brand in the magazine. That occurs. 10:18:48
15 MR. SCHOOP: Could you clarify Federal versus 10:18:50
16 Remington? 10:18:52
17 THE WITNESS: Oh, I'm sorry. Federal is a brand, 10:18:53
18 Federal brand of ammunition, okay. It's a well-known 10:18:55
19 company -- 10:18:59
20 MR. STROTH: Q Yes. 10:19:00
21 A -- that manufactures ammunition. Remington 10:19:00
22 is another manufacturer of ammunition and very common 10:19:04
23 brands of nine millimeter. 10:19:10
24 And the Rule 14, I don't recall the name of 10:19:12

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1 the incident, but I do recall the facts in which an 10:19:17
2 officer was off duty, was working security for a 10:19:22
3 Mexican restaurant, and there was a car pulls up and 10:19:31
4 shoots at some people there in front of the 10:19:35
5 restaurant on the sidewalk. 10:19:40

6 The officer ends up shooting at a car which 10:19:41
7 he believed was the car that shot at the victims on 10:19:45
8 the, on the sidewalk. 10:19:52

9 His -- the shooting itself may have been 10:19:55
10 justified, but I do recall that they -- the officer, 10:19:58
11 and I don't know the colors of the car, he said it 10:20:03
12 was blue when, in fact, it was red. 10:20:06

13 It was a material fact, and it was actually 10:20:08
14 the opposite because there was two cars involved, and 10:20:13
15 IPRA sought separation on a Rule 14 violation, and 10:20:18
16 the superintendent concurred with that. 10:20:21

17 In fact, the superintendent wrote a PAX 501. 10:20:23
18 It's an all-employee memo that goes out and 10:20:31
19 explaining his position regarding that incident, but 10:20:35
20 that -- 10:20:38

21 Q Could you define PAX 501, can you tell me 10:20:38
22 what that is? 10:20:42

23 A Yeah. It's a memo that goes out from the 10:20:43
24 superintendent. They're periodic, I would say three 10:20:46

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1 written policies in its real application, in its real 10:31:16
2 practice, does that match with the written policies? 10:31:19
3 That's the core of the question. 10:31:21

4 A Okay. You are going to have arguments on 10:31:23
5 both sides. 10:31:34

6 When there -- when a matter is sustained, 10:31:36
7 when there's discipline and if there is discipline, 10:31:39
8 the investigation has sustained an allegation, and 10:31:43
9 now it goes through a process of what is the penalty, 10:31:49
10 and that penalty could be as severe as separation or 10:31:54
11 it could be a reprimand, okay, and you're going to 10:31:57
12 have arguments by command channel. 10:32:01

13 You could have disagreement with the 10:32:06
14 superintendent and IPRA, and even if the 10:32:08
15 superintendent and IPRA agrees that an officer should 10:32:11
16 be separated, it's got to go to the Police Board, and 10:32:14
17 the Police Board may disagree with IPRA and the 10:32:19
18 superintendent and find -- well, they could do a 10:32:24
19 number of things. 10:32:30

20 They could find the officer did not violate 10:32:31
21 any policies and restore them back to their position. 10:32:34
22 They could agree with the -- IPRA and the 10:32:39
23 superintendent but not separate that officer, or they 10:32:42
24 could agree with the -- IPRA and the superintendent 10:32:47

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1	MR. STROTH: Q	So was the number for the	10:53:37
2	penalty written --		10:53:39
3	A	No.	10:53:40
4	Q	-- during that time period in question?	10:53:40
5		Okay, thank you. Can we go off the record	10:53:43
6		for a few minutes?	10:53:46
7	THE VIDEOGRAPHER:	Off the record at 10:52 a.m.	10:53:47
8		(Brief recess taken.)	10:53:54
9	THE VIDEOGRAPHER:	Back on the record at 10:53	10:55:06
10	a.m.		10:55:10
11	MR. STROTH: Q	Does the City of Chicago have in	10:55:11
12	place policies and practices that impede the		10:55:14
13	investigation of officer misconduct?		10:55:20
14	MR. SCHOOP:	That impede?	10:55:24
15	MR. STROTH:	Impede.	10:55:26
16	MR. SCHOOP:	Impede. You're talking from the	10:55:27
17	time from 2010 to 2016?		10:55:28
18	MR. STROTH:	Yes, 2010 to 2016.	10:55:30
19	MR. SCHOOP:	Do you understand the question?	10:55:33
20	THE WITNESS:	I do.	10:55:35
21	MR. SCHOOP:	Okay. Go ahead and answer the	10:55:35
22	question.		10:55:38
23	THE WITNESS:	Again, this is one that people	10:55:38
24	could disagree with and argue one way or the other,		10:55:40

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1 but the Internal Affairs Division and IPRA to be now 10:55:44
2 COPA operate -- have to operate under the framework 10:55:49
3 in which various Collective Bargaining Agreements 10:55:53
4 have been approved, and there's various State 10:55:59
5 statutes that cover concern, especially like 10:56:03
6 anonymous complaints and sworn affidavits, so we have 10:56:08
7 to abide by those Collective Bargaining Agreements, 10:56:14
8 and we have to abide by the State statute and City 10:56:18
9 ordinances. 10:56:21

10 Obviously those things can change, and 10:56:22
11 during this timeframe, from 2010 to 2016, we did 10:56:25
12 change the various levels of appeals for police 10:56:30
13 misconduct that was sustained. 10:56:39

14 So prior to the 2012 contract, I believe 10:56:41
15 it's 2012, the officers were able to take a matter to 10:56:45
16 the Police Board or to grieve it or take it to the 10:56:52
17 superintendent. There was -- and I could be -- there 10:56:56
18 was three levels of review or appeals. 10:56:59

19 Now -- and that delays the process because 10:57:04
20 one could take a while, then you go to the other, 10:57:08
21 then you go to the other. And now you get one bite 10:57:11
22 of that apple, so to speak. You have to choose, so 10:57:16
23 that speeds up the process. 10:57:20

24 That is probably an example in which people 10:57:23

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1 would argue that impeded the disciplinary process 10:57:26

2 because it took so long for a final decision. 10:57:30

3 Another example that people discuss is the 10:57:33

4 sworn affidavit, and again, that's State statute, and 10:57:38

5 it's Collective Bargaining Agreement. Obviously 10:57:46

6 those things can be changed, but until then we have 10:57:49

7 to operate under that. 10:57:52

8 Now, that doesn't mean we cannot investigate 10:57:53

9 something in which we don't have a sworn affidavit if 10:57:56

10 we have independent verifiable evidence of that 10:58:01

11 allegation. 10:58:06

12 So if someone came in with an allegation of 10:58:07

13 police misconduct and then fails or refuses to sign 10:58:12

14 an affidavit, if we have independent verifiable 10:58:18

15 evidence, example, an audiotape or video of that 10:58:23

16 incident, we can override that sworn affidavit 10:58:31

17 requirement, okay. 10:58:35

18 So another example of which the process has 10:58:41

19 sped up is the command channel review. If an 10:58:49

20 investigation is sustained and it's less than 10:58:53

21 separation, it goes through a command channel review 10:58:57

22 process. That investigation goes to the commanding 10:59:00

23 officer of that officer that was charged and then the 10:59:04

24 next level up, typically a deputy chief. 10:59:10

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1 That process is kind of bogged down, and we 10:59:14
2 now implemented 15 days for each level. If you don't 10:59:18
3 respond in 15 days, you're deemed to accept it, and 10:59:24
4 it moves on to the next level, and after the deputy 10:59:28
5 chief, it usually goes back to the chief of Internal 10:59:32
6 Affairs for final disposition and then obviously the 10:59:35
7 superintendent who has the final say. 10:59:37

8 That has sped up the process, so things have 10:59:39
9 changed during this 2010 to 2016 to speed up the 10:59:42
10 investigations, but we still have to work under the 10:59:51
11 framework of the Collective Bargaining Agreements and 10:59:55
12 State law. 11:00:00

13 MR. STROTH: Q Commander Klimas, does the City 11:00:02
14 of Chicago's disciplinary system lack integrity? 11:00:04

15 MR. SCHOOP: I'm going to object to the clearly 11:00:08
16 argumentative form of the question, and that's -- 11:00:10
17 that's not with -- that's not a good faith 11:00:14
18 interpretation of the designation for Paragraph 6. 11:00:17

19 MR. STROTH: Q We disagree with counsel's 11:00:19
20 perspective. My question is simple. 11:00:22

21 Commander Klimas, does the City of Chicago's 11:00:25
22 disciplinary system lack integrity from your -- from 11:00:27
23 the City's perspective? 11:00:31

24 MR. SCHOOP: You know what, Commander, go ahead 11:00:31

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1 and answer the question.

11:00:31

2 THE WITNESS: I would strongly disagree. It has
3 integrity because we discipline officers all the
4 time, and we investigate criminal activity of
5 officers, and we have charged, worked with State's
6 attorneys or the Federal agencies, and we have
7 prosecuted department members, and they have gone to
8 jail, both civilians and sworn members.

11:00:32

11:00:35

11:00:39

11:00:42

11:00:45

11:00:48

11:00:51

9 If we didn't have integrity, then no one --

11:00:55

10 no matters would be sustained, no one would go to

11:00:58

11 jail, and we take discipline seriously, and I believe

11:01:02

12 it has a lot of integrity.

11:01:08

13 MR. STROTH: Q Thank you.

11:01:11

14 Does the City of Chicago's disciplinary
15 system fail to effectively deter officer misconduct?

11:01:13

11:01:16

16 MR. SCHOOP: Again, counsel, this question is
17 asking for an opinion that I would strongly and
18 vociferously suggest is outside the scope of
19 Paragraph 6.

11:01:24

11:01:27

11:01:31

11:01:34

20 But Commander, do you understand the
21 question?

11:01:35

11:01:36

22 THE WITNESS: I do.

11:01:36

23 MR. SCHOOP: Go ahead and answer the question,
24 please.

11:01:37

11:01:39

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1	THE WITNESS: The -- it does. We -- there are	11:01:39
2	matters that come to our attention in Internal	11:01:45
3	Affairs or the superintendent has asked us to conduct	11:01:48
4	some various investigations. Discipline should --	11:01:54
5	the ultimate goal is to change behavior if it's	11:02:00
6	serious.	11:02:03
7	You're always going to have minor	11:02:04
8	transgressions, okay, you're late for roll call for	11:02:06
9	whatever reason, and you liked -- you know, that	11:02:11
10	usually goes to the district, hey, you know, you	11:02:14
11	could start off with a SPAR, if you continue to be	11:02:16
12	late, either you get a new alarm clock or you're	11:02:20
13	going to go up to the next level and you're going to	11:02:24
14	take more time off.	11:02:27
15	You're trying to discipline the officer to,	11:02:28
16	you know, change their behavior. It's just like	11:02:31
17	being a parent. Doesn't mean that you don't love	11:02:34
18	your children, but you have to discipline them at	11:02:36
19	times, and it's the same thing in the police	11:02:40
20	department, we're trying to change their behavior.	11:02:42
21	If it gets serious enough, then the	11:02:45
22	penalties go up, and if the matter is serious, it	11:02:48
23	could start out at a serious penalty, okay, and if	11:02:54
24	it's just so outrageous, it could -- first time could	11:02:57